

Taylor Brands LLC, a	)	
Tennessee limited liability company	)	
1043 Fordtown Road	)	
Kingsport, Tennessee 37663	)	
	)	
Plaintiff,	)	
vs.	)	Civil Action No. _____
	)	
SOG Specialty Knives, Inc., a	)	
Washington corporation,	)	
Serve Registered Agent	)	
Washington Corporate Services Inc.	)	
700 5 <sup>th</sup> Avenue, Suite 5800	)	
Seattle, Washington 98104-5017	)	
	)	
Defendant.	)	
	)	

Plaintiff, for its complaint against Defendant, states as follows:

1. Plaintiff, Taylor Brands, LLC, (hereinafter referred to as “Taylor Brands”), is a limited liability company duly organized and existing under the laws of the State of Tennessee, having its principal place of business at 1043 Fordtown Road in the City of Kingsport in the State of Tennessee.

2. On information and belief, Defendant SOG Specialty Knives, Inc., (hereinafter referred to as "SOG"), is a corporation organized and existing under the laws of the State of Washington, having its principal place of business at 6521 212<sup>th</sup> Street, SW in the City of Lynnwood in the State of Washington.

### **NATURE OF ACTION**

3. This is an action for a declaratory judgment of Plaintiff's rights against Defendant, especially relating to invalidity, noninfringement and unenforceability of U.S. Patent No. 6,941,661, having been granted to Spencer Frazer and purportedly assigned to Defendant SOG.

### **JURISDICTION AND VENUE**

4. Jurisdiction of this Court over the cause of action set forth herein is based on Sections 1331, 1338(a), 2201 and 2202 of Title 28 of the U.S. Code. Venue is proper within the judicial district under Section 1391(c) of Title 28 of the U.S. Code.

5. Jurisdiction of this Court over Defendant SOG is based upon Tenn. Code Ann. § 20-2-201 *et seq.* (2005).

### **BACKGROUND FACTS**

6. Plaintiff Taylor Brands is and has been engaged in the design, manufacture and sale of originally designed cutlery in the United States since 1975.

7. On information and belief, Defendant SOG is doing business in this district, including engaging in the sale of knives in the United States including this district.

8. On or about September 13, 2005, U.S. Patent No. 6,941,661 (hereinafter referred to as the "661 Patent") was granted to Spencer Frazer.

9. Prior thereto, on or about May 17, 2005, said Spencer Frazer purportedly sold, assigned and transferred unto Defendant SOG, the entire right, title and interest in and to a certain U.S. patent applications and any patents issuing thereon, including the U.S. Application for the 661 Patent and the 661 Patent.

10. Defendant SOG has charged Plaintiff Taylor Brands with infringement of the 661 Patent, which charge Plaintiff Taylor Brands has denied.

11. As a result of said charge of infringement made by Defendant SOG and denied by Plaintiff Taylor Brands, Taylor Brands is in apprehension of being sued by Defendant SOG and an actual and justiciable controversy exists between the parties hereto.

12. The 661 Patent is invalid for failure to comply with the conditions of patentability set forth in the Patent Laws of the United States, Title 35, U.S. Code.

13. Plaintiff Taylor Brands is not infringing and has not infringed the 661 Patent.

**WHEREFORE**, Plaintiff Taylor Brands prays for judgment:

- (1) Declaring that U.S. Patent No. 6,941,661 is invalid;
- (2) Declaring that U.S. Patent No. 6,941,661 has never been, and is not now, infringed by Plaintiff Taylor Brands in this judicial district or anywhere in the United States;
- (3) Declaring that this is an exceptional case pursuant to 35 U.S.C. § 285;
- (4) Awarding Plaintiff Taylor Brands its costs, attorney's fees and disbursements incurred in this action; and
- (5) Awarding such other and further relief as the court may deem just and proper.

DATED this 20<sup>th</sup> day of January, 2006.

/s/ John W. Wheeler 

JOHN W. WHEELER (BPR 000854)

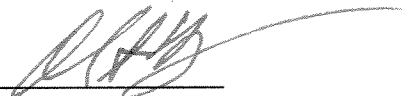
Attorney for Plaintiff

HODGES, DOUGHTY & CARSON

617 Main Street

Knoxville, Tennessee 37901-0869

(865) 292-2307

/s/ Matthew A. Birdwell 

MATTHEW A. BIRDWELL (BPR 023509)

Attorney for Plaintiff

HODGES, DOUGHTY & CARSON

617 Main Street

Knoxville, Tennessee 37901-0869

(865) 292-2307

**OF COUNSEL:**

PETER N. LALOS

THOMAS P. PAVELKO

ERIC P. ROBINS

STEVENS, DAVIS, MILLER & MOSHER, LLP

1615 L Street, NW, Suite 850

Washington, DC 20036

Telephone: (202) 785-0100

*Attorneys for Plaintiff*